IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISON

DALE GOODRICH, and JACELYN GOODRICH	)	C.A.No. 3XI7Xcv-XX______________
	)	**COMPLAINT**
Plaintiffs,	)	
v.	)	
POWER PRODUCTS, LLC and LOWE'S HOME CENTERS, LLC	)	(JURY TRIAL DEMANDED)
Defendants.	)	(Strict Liability) (Negligence) (Failure to Warn) (Seller Liability) (Punitive Damages)

The Plaintiffs, Dale Goodrich and Jacelyn Goodrich, complaining of the Defendants Power Products, LLC and Lowe's Home Centers, LLC, would show to this Honorable Court as follows:

1. This is a product liability case about a defective electrical hand tool called a Sperry MD-210A multimeter (sometimes hereinafter "the meter" or "the subject meter") which was designed / manufactured by Defendant Power Products (or its predecessor company), and then sold by Defendant Lowe's to Plaintiff Dale Goodrich.
2. A preventable electrical arc blast explosion occurred while Dale was using the defective meter, and that blast severely burned him.
3. Dale suffered pain, prolonged hospital treatment, multiple surgeries, disfigurement, physical therapy, over $250,000.00 in medical costs, and other injuries to be proven at trial.
4. Dale's wife Plaintiff Jacelyn Goodrich brings a cause of action for loss of consortium damages as well.

JURISDICTION AND VENUE

5. Plaintiffs are citizens of the State of South Carolina who resides at 580 Miller Hodges Road, Inman, SC 29349.

6. Defendant Power Products, LLC is a Delaware limited liability company that, in violation of South Carolina law, has not registered to transact business in the State of South Carolina. Defendant Power Products may be served through its registered agent Adam McMahon, N85 W12545 Westbrook Crossing, Menomonee Falls, WI 53051. Defendant Power Products principal place of business is in Menomonee Falls, Wisconsin. Defendant Power Products is, therefore, a citizen of the states of Delaware and Wisconsin.

7. Jurisdiction and venue are proper as to Defendant Power Products.

8. Defendant Power Products was properly served with process in this matter.

9. Defendant Lowe's Home Centers LLC is a North Carolina limited liability company that has registered with the South Carolina Secretary of State to do business in South Carolina. Defendant Lowe's may be served through its registered agent Corporation Services Company at 1703 Laurel Street, Columbia, South Carolina 29201. Defendant Lowe's principal place of business is in North Carolina. Defendant Lowe's is, therefore, a citizen of the state of North Carolina.

10. Jurisdiction and venue are proper as to Defendant Lowe's.

11. Defendant Lowe's was properly served with process in this matter.

12. Jurisdiction is proper in this Court under 28 U.S.C. § 1332 because there is a complete diversity of citizenship of the parties and the amount in controversy exceeds seventy-five thousand ($75,000.00) dollars, exclusive of the interests and costs.

13. Venue is proper in this Court under 28 U.S.C. § 1391 because a substantial portion of the events giving rise to the claim occurred in this district – specifically at 2200 Racing Road, Greer, Spartanburg County, South Carolina.

FACTUAL ALLEGATIONS

14. Plaintiff Dale Goodrich is a developer who, on April 30, 2015, was working in an old textile mill that was being converted to loft apartments. The old mill is located at 2200 Racing Road, Greer, Spartanburg County, South Carolina.

15. During his work, Plaintiff Dale Goodrich used a Sperry DM-210A meter (Serial #: E161088 12/08) designed, tested, manufactured, distributed, and marketed by Defendants to find an electrical circuit that could be used to put an out of service elevator back into service.

16. In performing this work, Plaintiff Dale Goodrich touched the test leads of his Sperry DM-210A meter to the three-phase circuit on the panel in the mill's electrical room, and when he did so, the meter failed. That failure caused a buildup of electricity at the probe tips and an arc blast explosion which severely injured Plaintiff Dale Goodrich.

17. At all relevant times, Plaintiffs exercised ordinary care under the conditions and circumstances then existing.

18. Defendants are, and at all times mentioned herein were, engaged in the business of designing, manufacturing, testing, marketing, distributing, and placing into the stream of

commerce, meters such as the subject Sperry DM-210A.

19. Defendants designed, tested, manufactured, marketed, distributed, and placed into the stream of commerce the Sperry DM-210A meter involved in the above-described incident which reached Plaintiff Dale Goodrich, the owner of the meter, in the same or substantially the same condition in which it was sold which condition made the meter defective and unreasonably dangerous.

20. Alternatively, one or more of the Defendants are successor companies that are continuing the business of a predecessor company that designed, tested, manufactured, marketed, distributed, and placed into the stream of commerce the Sperry DM-210A meter involved in the above-described incident which reached Plaintiff Dale Goodrich, the owner of the meter, in the same or substantially the same condition in which it was sold which condition made the meter defective and unreasonably dangerous.

21. At the time the meter was designed and manufactured, Defendants had developed and had access to numerous alternative designs that could inexpensively enhance and increase the meter's safety. However, Defendants did not incorporate any of these alternative designs into the Sperry DM-210A meter.

22. Defendants knew or should have known that because of the defects inherent in the Sperry DM-210A meter, the public was in danger of being injured by electrical arc blast explosions, such as the one occurring in the incident at issue.

23. Despite Defendants' knowledge of the Sperry DM-210A's unreasonably dangerous design, Defendants continued to produce, manufacture, test, market, distribute, and sale Sperry DM-210A.

FOR A FIRST CAUSE OF ACTION AS TO BOTH DEFENDANTS

(Strict Liability)

24. That all acts and omissions alleged hereinabove are repeated as if fully set forth here in their entirety.

25. Defendants were engaged in the business of designing, manufacturing, assembling, distributing, inspecting, and selling Sperry DM-210A meters, such as the subject meter. Defendants manufactured, assembled, inspected, distributed, and sold the subject meter involved in this action. The vast majority (if not all) of Defendants' actions that give rise to liability occurred in the United States of America.

26. On or about April 30, 2015, the subject Sperry DM-210A meter was being used for the purposes for which it was intended and in a manner reasonably foreseeable by Defendants.

27. Defendants designed, manufactured, assembled, inspected, distributed, and sold the Sperry DM-210A meter in a manner so as to render the subject Sperry DM-210A meter defective and unsafe for its intended use.

28. Defendants reasonably expected that the subject Sperry DM-210A meter would be used to measure live electrical currents and would reach the ultimate users in the condition that it was in at the time of the incident.

29. Defendants' design, manufacturing, assembling, inspection, distribution, marketing, and sale of the Sperry DM-210A meter caused the defective and unsafe condition which was a proximate cause of the injuries suffered by Plaintiffs, and as a result, Defendants are strictly liable to Plaintiffs.

30. At the time of the incident, the subject Sperry DM-210A meter was in substantially the

same mechanical and design condition as it was on the date of its manufacture and sale.

31. The arc flash / arc blast event and failure mode of the Sperry DM-210A meter were reasonably foreseeable to Defendants.

32. At the time of the incident, the Sperry DM-210A meter was unreasonably dangerous and defective. The dangers and defects subjected Plaintiff Dale Goodrich, the Sperry DM-210A meter's user, to an unreasonable risk of harm in that the subject Sperry DM-210A meter as designed and manufactured had the ability to cause an arc flash / arc blast explosion in foreseeable circumstances.

33. Defendants failed to follow their own internal design guidelines and properly test and analyze the subject Sperry DM-210A meter with appropriate testing so as to properly address the Sperry DM-210A meter's inherent unsafe characteristics.

34. Defendants' defective design and manufacture of the subject Sperry DM-210A meter was such that it subjected its users, including Plaintiff Dale Goodrich, to increased risk of injury and/or death from electrical arc blasts solely caused by the defective design and manufacture of the subject Sperry DM-210A meter.

35. These defects in the subject Sperry DM-210A meter existed despite the fact that it would have been practical and relatively inexpensive for Defendants to incorporate alternative designs into the subject Sperry DM-210A meter that would have reduced the potential for arc blast explosions.

36. As a direct and proximate result of the defective condition of the subject Sperry DM-210A meter, Plaintiff Dale Goodrich was subjected to an electrical arc blast explosion that would not otherwise have occurred but for the defective design and manufacture of the subject Sperry DM-210A meter as set forth above. As a direct and proximate result

of the electrical arc blast explosion, Plaintiffs were injured.

FOR A SECOND CAUSE OF ACTION AS TO BOTH DEFENDANTS

(Negligence)

37. On or about April 30, 2015, the subject Sperry DM-210A meter was being used for the purposes for which it was intended and in a manner reasonably foreseeable to Defendants.

38. Defendants knew or should have known that the Sperry DM-210A meter used by Plaintiff Dale Goodrich would be placed in the stream of interstate commerce when it was distributed in the United States of America.

39. Defendants owed a duty to the consuming public, and to Plaintiffs in particular, not to distribute into the stream of interstate commerce a defective meter.

40. Defendants breached its duty of reasonable care to the consuming public and to the Plaintiffs in particular, when it negligently designed, manufactured, marketed, and distributed the subject Sperry DM-210A meter in a defective condition, unreasonably dangerous to the public and to the Plaintiffs in particular.

41. Defendants knew or should have known that the subject Sperry DM-210A meter was defectively manufactured, tested, designed, distributed, and marketed and was unreasonably dangerous.

42. Defendants breached its duty of reasonable care to the consuming public and to the users of the subject Sperry DM-210A meter, including Plaintiff Dale Goodrich, by deliberately opting not to design and manufacture the subject meter so as to avoid foreseeable electrical arc blast explosions that could occur during use.

43. Despite Defendants' knowledge of the unreasonably dangerous and defective condition

of the Sperry DM-210A meter, Defendants took no steps to protect the general public, or the Plaintiffs in particular, from foreseeable and anticipated harm.

44. The subject Sperry DM-210A meter designed, manufactured, tested, marketed, and distributed by Defendants was represented by Defendants to be equipped with safety features that met the standards of the industry and the law, but the subject Sperry DM-210A meter was, in fact, defectively designed, tested, manufactured, marketed, and distributed by Defendants and then sold to the public as a safe product.

45. The above-described electrical arc blast explosion was caused, in whole or in part, by the negligent actions of Defendants in failing to use ordinary care in the design, testing, manufacture, marketing, and distribution of the subject Sperry DM-210A meter, which was a proximate cause of the damages Plaintiffs sustained.

46. Defendants were and are negligent *per se*.

47. Defendants were negligent for all other acts of negligence as may be shown at trial.

48. As a direct and proximate result of using the subject Sperry DM-210A meter, Plaintiff Dale Goodrich sustained injuries, which were a direct and proximate result of the negligence of Defendants. But for said negligence, Plaintiffs would not have suffered catastrophic injuries.

FOR A THIRD CAUSE OF ACTION AS TO BOTH DEFENDANTS

(Failure to Warn)

49. Defendants' negligently failed to warn Plaintiffs and other foreseeable users of Sperry DM-210A meters that Defendants' Sperry DM-210A meters were defectively designed and manufactured as set forth herein. This duty was breached both at the time the subject Sperry DM-210A meter was first sold, and the continuing duty to warn was breached

right up until the time of the subject incident.

50. Defendants' negligently provided misleading and defective information on the meter's face and in the meter's instruction manual regarding the dangers of the subject meter and such misleading and defective information encouraged users of the meter, such as Plaintiff Dale Goodrich, to use the meter in electrical environments where it would be unsafe to do so.

51. Defendants' negligently failed to include proper and effective warnings of the meter's danger both on the product face and in the product's user manual.

52. As a direct and proximate result of Defendants' negligent warnings, Plaintiff Dale Goodrich sustained injuries. But for said negligence, Plaintiffs would not have suffered catastrophic injuries.

FOR A THIRD CAUSE OF ACTION AS TO BOTH DEFENDANTS

(Seller Liability)

53. Defendants sold the defective Sperry DM-210A meter in an unreasonably dangerous condition to Plaintiff Dale Goodrich and to other consumers and the defective Sperry DM-210A meter caused physical harm to Plaintiff Dale Goodrich – the ultimate user.

54. Defendants are engaged in the business of selling meters such as the Sperry DM-210A meter, and Defendants expected the meter to reach Plaintiff Dale Goodrich without substantial change in the defective condition in which the meter was sold.

55. The defective Sperry DM-210A did reach Plaintiff Dale Goodrich without substantial change in the defective condition in which the meter was sold.

56. As a direct and proximate result of the meter's defects, Plaintiff Dale Goodrich sustained injuries, and as a result the Defendants are liable to Plaintiff Dale Goodrich as the seller

of a defective product.

FOR A FOURTH CAUSE OF ACTION AS TO BOTH DEFENDANTS

(Breach of Warranty)

57. Plaintiff Dale Goodrich purchased the defective Sperry DM-210A meter directly from at least one of the Defendants, and all Defendants are merchants who regularly sell meters such as, and including, the defective Sperry DM-210A meter at issue.

58. At the time of sale, and in violation of the implied warranties of fitness and merchantability, the defective Sperry DM-210A meter at issue was not reasonably fit for its intended use and was not reasonably safe for its intended use.

59. The Defendants failed to exercise due care in manufacturing, processing, and selecting the defective Sperry DM-210A meter for sale, and as a result the meter was not fit and was not safe.

60. Even though Plaintiff Dale Goodrich exercised ordinarily care for his own safety regarding his purchase and use of the defective meter, Plaintiff Dale Goodrich was unaware of the defective meter's lack of fitness and lack of safety.

61. As a direct and proximate result of the meter's lack of fitness and safety, Plaintiff Dale Goodrich sustained injuries, and as a result, at least one Defendants are liable to Plaintiff Dale Goodrich for breached warranties.

FOR A FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Punitive Damages)

62. Defendants acted with reckless disregard for the safety and well being of the citizens of the State of South Carolina, including Plaintiffs. Defendants' misconduct was both reckless and wanton, as defined under S.C. Code Ann.§ 15-32-520, in that it designed,

tested, manufactured, inspected, marketed, modified, distributed, and sold the subject Sperry DM-210A meter with knowledge of the risks to life and limb described herein.

63. Defendants' reckless and wanton conduct was motivated primarily by unreasonable financial gain, and the unreasonably dangerous nature of Defendants' conduct as well as the high likelihood of injury resulting from the conduct was known and/or approved by a managing agent, director, officer, or person responsible for making policy decisions on behalf of the Defendants.

64. Defendants reckless and wanton conduct proximately caused Plaintiffs' injuries, and such conduct warrants the imposition of punitive damages against Defendants to the maximum amount allowed under the law.

RELIEF SOUGHT

65. As a result of injury, Plaintiffs incurred reasonable and necessary medical expenses that are believed to exceed $250,000.00. Plaintiffs will continue to incur expenses in the future, in an amount to be proven at trial.

66. The injuries suffered by Plaintiffs as described herein are continuing and permanent in nature.

67. The injuries sustained by Plaintiffs are the direct and proximate result of negligence on the part of the Defendants. But for Defendants' negligence, Plaintiffs would not have suffered the injuries and losses discussed herein.

68. Plaintiffs are entitled to recover for the injuries and pain and suffering sustained, and all other elements of damages allowed under South Carolina law, including but not limited to all compensatory, general, special, incidental, consequential, punitive, and/or other damages permitted. Plaintiffs state their intention to seek all compensatory, special,

economic, consequential, general, punitive, and all other damages permissible under South Carolina law, including, but not limited to:

a. Personal injuries;

b. Past, present and future pain and suffering;

c. Disability;

d. Disfigurement;

e. Mental anguish;

f. Loss of the capacity for the enjoyment of life;

g. Loss of earning capacity;

h. Lost wages;

i. Diminished capacity to labor;

j. Incidental expenses;

k. Past, present and future medical expenses;

l. Permanent injuries;

m. Loss of consortium; and

n. Consequential damages to be proven at trial.

69. Plaintiff Jacelyn Goodrich is the lawful wife of Plaintiff Dale Goodrich. Plaintiff Jacelyn Goodrich has suffered a loss of consortium, companionship, and services of Plaintiff Dale Goodrich because of Defendants wrongful conduct, and as a result, she is entitled to recover for such damages in an amount to be proven at trial.

70. Each of the forgoing acts and omissions constitute an independent act of negligence on the part of the Defendants, and one or more or all of the above stated acts were the proximate causes of the injuries and damages sustained by the Plaintiffs.

WHEREFORE, Plaintiffs pray for a judgment against Defendants for the following:

1) Plaintiffs be awarded actual damages in amounts to be shown at trial;

2) Plaintiffs be awarded all general, special, compensatory, economic, and other allowable damages in accordance with the enlightened conscience of an impartial jury from the Defendants;

3) Punitive damages be imposed on Defendants in an amount to be determined by the enlightened conscience of the jury;

4) Plaintiffs be awarded a trial by jury; and

5) Plaintiffs have such other relief as this Court deems just and appropriate under the circumstances.

TRIAL BY JURY IS HEREBY DEMANDED

This 3rd day of April, 2017.

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ARCHENHOLD, LLC

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